STATE OF MICHIGAN

COURT OF APPEALS

CHIRCO TITLE AGENCY, INC,

Plaintiff,

v

SAM TOCCO, individually and as trustee of the SAM TOCCO TRUST OF JULY 11, 2001,

Defendant/Cross-Defendant-Appellee,

and

SAM ANTHONY TOCCO and KNOLLWOOD MEMORIAL PARK CEMETERY ASSOCIATION,

Defendants/Cross-Plaintiffs-Appellants.

UNPUBLISHED
May 12, 2015

No. 322374
Wayne Circuit Court
LC No. 14-003851-CK

CHIRCO TITLE AGENCY, INC,

Plaintiff,

v

SAM TOCCO, individually and as trustee of the SAM TOCCO TRUST OF JULY 11, 2001,

Defendant/Cross-Defendant-Appellee,

and

SAM ANTHONY TOCCO and KNOLLWOOD MEMORIAL PARK CEMETERY ASSOCIATION,

Defendants/Cross-Plaintiffs-Appellants.

No. 322375
Wayne Circuit Court
LC No. 11-014008-CK

Before: TALBOT, C.J., and CAVANAGH and METER, JJ.

PER CURIAM.

In this interpleader action, Sam Anthony Tocco (Grandson) and the Knollwood Memorial Park Cemetery Association (KMP) appeal by leave granted[1] two orders of the trial court granting summary disposition in favor of Sam Tocco (Grandfather), in his individual capacity and as trustee of the Sam Tocco Trust of July 11, 2011 (Trust). For the reasons discussed below, we vacate the trial court's January 24, 2012 order requiring Grandson to pay $7,500 a month to Grandfather throughout the proceedings and remand for further proceedings with respect to that order. We affirm in all other respects.

I. FACTS

The instant dispute concerns ownership of the KMP. Ownership of the KMP is represented by stock certificates. Before 2003, the Trust held these stock certificates. In 2003, Grandson agreed to purchase the KMP through a stock purchase agreement. However, Grandson was unable to keep up with payments required under this agreement. In 2006, to settle a lawsuit, the parties entered into an agreement through which Grandson was to make monthly payments to Grandfather until 2018, when a balloon payment would come due. The stock certificates were placed in escrow with Chirco Title Agency, Inc. (Chirco). In 2009, Grandson defaulted under the 2006 settlement agreement. Chirco filed an interpleader action in 2009. However, the parties again settled their dispute. Under an amendment to the 2006 agreement, Grandson agreed to pay Grandfather $7,500 a month until September 30, 2010, when a balloon payment of $1.2M came due. The agreement included a one-year extension option, whereby at Grandson's discretion, Grandson could make a one-time payment of $20,000 to Grandfather and continue making $7,500 monthly payments until September 30, 2011, when the $1.2M balloon payment would come due. If Grandson failed to make a payment as scheduled under the 2009 agreement, Grandfather could notify Chirco of the default, at which time Chirco was to endorse the stock certificates to Grandfather.

Grandson exercised the one-year extension. However, he was unable to make the $1.2M payment on September 30, 2011. In November, 2011, Chirco filed a complaint for interpleader, asking the trial court to determine who was entitled to ownership of the stock certificates it held in escrow. During litigation of this matter, Grandson claimed Grandfather committed fraud when the parties agreed to the 2003 sale by failing to accurately disclose the assets of the cemetery. Grandson asserted that maps describing unsold cemetery plots were inaccurate, that

[1] *Chirco Title Agency v Sam Tocco*, unpublished order of the Court of Appeals, entered August 22, 2014 (Docket No.'s 322374 and 322375). For reasons unimportant to our decision, two essentially identical cases, one filed in 2011 and one filed in 2014, were allowed to proceed in the trial court. The trial court entered identical orders resolving each case. Grandson and the KMP filed two appeals, one arising out of each lower court case. This Court consolidated the appeals. *Id*.

Grandfather had double-sold plots, and that Grandfather had failed to notify Grandson of agreements with other entities providing these entities with rights to plots. After both parties filed competing motions for summary disposition pursuant to MCR 2.116(C)(10), the trial court found that Grandson's claims of fraud failed because Grandson did not adequately investigate the KMP's assets before agreeing to purchase the KMP. The trial court ordered Chirco to endorse the stock certificates to Grandfather. It also ordered Grandson to cooperate with Grandfather and provide him with what was necessary to operate the KMP.

II. DISCUSSION

A. SUMMARY DISPOSITION DECISION

Grandson first argues that the trial court erred when it granted summary disposition in favor of Grandfather pursuant to MCR 2.116(C)(10). While we agree with Grandson that the trial court's analysis was incorrect, the trial court reached the correct result, and accordingly, reversal is not warranted.[2]

A trial court's decision on a motion for summary disposition is reviewed de novo.[3] As our Supreme Court has explained:

> A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law. MCR 2.116(C)(10), (G)(4).[4]

"The proper interpretation of a contract is also a question of law that this Court reviews de novo."[5]

The trial court held that Grandson's fraud defense failed because he did not conduct an adequate investigation into the assets and liabilities of the KMP before agreeing to purchase it. "Michigan's contract law recognizes several interrelated but distinct common-law doctrines—loosely aggregated under the rubric of 'fraud'—that may entitle a party to a legal or equitable remedy if a contract is obtained as a result of fraud or misrepresentation."[6] However, "none of

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[2] This Court will affirm a trial court's decision that reached the correct result for an incorrect reason. See *Klooster v Charlevoix*, 488 Mich 289, 313; 795 NW2d 578 (2011).

[3] *Titan Ins Co v Hyten*, 491 Mich 547, 553; 817 NW2d 562 (2012).

[4] *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999).

[5] *Titan Ins Co*, 491 Mich at 553.

[6] *Id*. at 555. While the parties address Grandson's claim as one of fraud in the inducement, Grandson's claim would seem to be one of silent fraud, where one alleges that another has

these doctrines requires that the party asserting fraud prove that the fraud could not have been discovered through the exercise of reasonable diligence."[7] "[T]hese doctrines do not require the party asserting fraud to have performed an investigation of all assertions and representations made by its contracting partner as a prerequisite to establishing fraud."[8] The trial court also ignored the clearly expressed intent of the parties. In the 2003 purchase agreement, the parties agreed that Grandson could freely access the KMP's books and records, but that his ability to do so was not to "in any way be deemed to be a waiver of any representation or warranty" by Grandfather, "it being expressly understood and agreed that [Grandson] is relying upon such representations and warranties in [his] decision to purchase the shares." The trial court erred by holding that Grandson was required to conduct such an investigation and granting summary disposition on that basis.[9]

However, the trial court reached the correct result by granting summary disposition in Grandfather's favor. Generally, "a court must construe and apply unambiguous contract provisions as written."[10] In 2006, Grandson signed a settlement agreement which resolved disputes arising out of the 2003 purchase agreement. In the 2006 agreement, the parties renegotiated the terms of the sale of the KMP, including the purchase price and terms of payment. The parties agreed to release each other "from all claims and causes of actions [sic] for injuries, losses, and/or damages, sustained by the parties to this Release and Settlement Agreement, whether direct or indirect, fixed or contingent, *known or unknown*, and whether or not liquidated, arising out of the stock purchase agreement . . . ." Grandson also signed an escrow agreement, in which he waived "any defenses or set-offs that he may have other than the defense of timely payment." After a dispute arose out of these agreements, in 2009, the parties amended the 2006 agreement, again renegotiating the payment terms. In this agreement, Grandson agreed to:

> waive any defenses for any and all claims and/or causes of action for injuries, . . . including any causes of action or claims that may be asserted to prevent the transfer of the certificates to the Grandfather, whether . . . *known or unknown*, . . . including but not limited to all claims that have been raised or which could have been raised by KMP and/or the Grandson, *now or in the future* against the Grandfather or to prevent the transfer of the stock certificates.

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suppressed the truth with the intent to defraud while under a legal or equitable duty of disclosure. See *id*. at 557.

[7] *Id*. at 557.

[8] *Id*.

[9] At least one prior case of this Court has held that there "can be no fraud where a person has the means to determine that a representation is not true." *Nieves v Bell Indus, Inc*, 204 Mich App 459, 464; 517 NW2d 235 (1994). But as our Supreme Court has explained, in *Nieves*, the defrauded party "was given direct information refuting the misrepresentations. Ignoring information that contradicts a misrepresentation is considerably different than failing to affirmatively and actively investigate a representation." *Titan Ins Co*, 491 Mich at 555-556 n 4.

[10] *Rory v Continental Ins Co*, 473 Mich 457, 461; 703 NW2d 23 (2005).

These provisions are plain and unambiguous. Grandson waived any and all defenses and causes of action that he might have arising out of the 2003 agreement, regardless of his knowledge of the existence of those claims or defenses.

Generally, a release clause "is valid if it is fairly and knowingly made."[11] "A release is invalid if (1) the releasor was acting under duress; (2) there was a misrepresentation as to the nature of the release agreement, or (3) there was fraudulent or overreaching conduct to secure the release."[12] Grandson argues that the 2006 and 2009 agreements are void because they were signed without knowledge of Grandfather's fraud related to the 2003 agreement. Grandson relies on *Custom Data Solutions, Inc v Preferred Capital, Inc*[13] as support. The fraud alleged in *Custom Data* involved misrepresentations that induced the plaintiff into agreeing to the same contract the plaintiff sought to avoid.[14] Here, Grandson does not allege any misrepresentations induced him to sign the 2006 or 2009 agreements, which contain the release clauses he seeks to avoid. Grandson presented no evidence indicating that he signed the 2006 or 2009 agreements while under duress. He also presented no evidence indicating that the nature of the releases was misrepresented or that the releases were obtained through fraudulent or overreaching conduct. Accordingly, the releases are enforceable, and Grandson could not defend against his default under the 2009 agreement by raising defenses or claims arising out of the 2003 agreement.[15]

Grandson also argues that allowing Grandfather to retain ownership of the KMP would violate the wrongful conduct rule. "The wrongful-conduct rule provides that when a plaintiff's action is based, in whole or in part, on his own illegal conduct, his claim is generally barred."[16] However, "to implicate the wrongful-conduct rule, the conduct must be serious in nature and prohibited under a penal or criminal statute."[17] Grandson provides no penal or criminal statutes that have been violated by Grandfather's alleged fraud. "A party may not leave it to this Court to search for authority to sustain or reject its position."[18] Grandson's argument lacks merit.[19]

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[11] *Brooks v Holmes*, 163 Mich App 143, 145; 413 NW2d 688 (1987).

[12] *Id*., citing *Denton v Utley*, 350 Mich 332, 342; 86 NW2d 537 (1957).

[13] 274 Mich App 239; 733 NW2d 102 (2007).

[14] *Id*. at 244.

[15] *Brooks*, 163 Mich App at 145. The parties also dispute whether the 2006 and 2009 agreements' merger clauses prevent Grandson from presenting his fraud defense. Because the fraud defense is prohibited by the release clauses, we need not decide whether the merger clause also prevents Grandson from relying on his fraud defense.

[16] *Hashem v Les Stanford Oldsmobile, Inc*, 266 Mich App 61, 89; 697 NW2d 558 (2005) (quotation omitted). "The rule rests on the public policy premise that courts should not, directly or indirectly, encourage or tolerate illegal activities." *Id*.

[17] *Id*.

[18] *City of Troy v Papadelis (On Remand)*, 226 Mich App 90, 95; 572 NW2d 246 (1997).

B. DUE PROCESS

Grandson next argues that the trial court denied him an opportunity to be heard in regard to his defenses and cross-claims. We disagree. Because this issue was not raised below, it is unpreserved, and our review is "for plain error affecting the outcome of the proceeding."[20]

The premise of Grandson's argument is that he was denied an opportunity to litigate his defenses and cross-claims because Grandfather never sought summary disposition of the claims or defenses. Due process requires a meaningful opportunity to be heard.[21] Grandson had an ample opportunity to pursue his defenses. After the 2014 case was filed, Grandson pleaded several defenses. Grandfather subsequently filed a motion for summary disposition. At this point, if Grandson wished to argue the merits of his defenses, he could have done so by raising them in response to Grandfather's motion. However, Grandson only discussed his fraud defense in response to the motion. Grandson was not denied an opportunity to have the merits of his various defenses heard. Rather, any failure to determine the merits of these defenses is because Grandson failed to argue them in response to Grandfather's motion.

With regard to Grandson's cross-claims, Grandson is technically correct in that Grandfather did not specifically seek summary disposition of these claims. The trial court, however, specifically granted summary disposition in Grandfather's favor with regard to these claims in its May 22, 2014 order. A trial court may grant summary disposition sua sponte pursuant to MCR 2.116(I)(1).[22] However, it "may not do so in contravention of a party's due process rights."[23] Grandson's cross-claims were premised on his allegations of fraud. These allegations were extensively briefed and addressed by the parties. Once the trial court rejected these allegations, it naturally followed that Grandson's cross-claims would fail. Grandson was given an ample opportunity to argue the merits of his allegations of fraud, and accordingly, the trial court's order granting summary disposition of these claims was not in error.[24]

C. ATTORNEY FEES AND COSTS

Grandson next argues that the trial court erred by imposing attorney fees and costs pursuant to MCR 2.114, MCR 2.625, and MCL 600.2591. This issue is not ripe for our review. "The doctrine of ripeness is designed to prevent the adjudication of hypothetical or contingent claims before an actual injury has been sustained. A claim is not ripe if it rests upon contingent

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[19] Given our resolution of this issue, we decline to address Grandfather's remaining arguments regarding why Grandson's fraud defense failed.

[20] *Lima Twp v Bateson*, 302 Mich App 483, 503; 838 NW2d 898 (2013).

[21] *By Lo Oil Co v Dep't of Treasury*, 267 Mich App 19, 32; 703 NW2d 822 (2005).

[22] *Al-Maliki v LaGrant*, 286 Mich App 483, 489; 781 NW2d 853 (2009).

[23] *Id*.

[24] Moreover, for the reasons previously discussed, Grandson waived any claims arising out of the 2003 purchase agreement. His cross-claims would fail as a matter of law, and accordingly, he cannot demonstrate prejudice arising from the trial court's order.

future events that may not occur as anticipated, or indeed may not occur at all."[25] The trial court's May 22, 2014 order contemplated an award of attorney fees and costs in the future upon submission of proof by Grandfather. Grandfather never submitted a request for attorney fees, and although he submitted a bill of costs, the trial court never entered an order awarding costs. Whether the trial court will award the costs sought by Grandfather or award attorney fees remain open questions. Because the trial court has not awarded Grandfather costs or attorney fees, the issue is not ripe for review.[26] Accordingly, we decline to address the issue.

D. FORFEITURE

Grandson next argues that the trial court's order resulted in an impermissible forfeiture. We disagree. A trial court's decision on a motion for summary disposition is reviewed de novo.[27] "The proper interpretation of a contract is also a question of law that this Court reviews de novo."[28]

When interpreting contracts, "courts do not favor forfeitures, and will so construe contracts as to prevent them whenever it can be done without doing violence to plain contract stipulations."[29] However, plain and unambiguous contractual provisions must be enforced as written.[30] Under the 2009 settlement agreement, the parties agreed that Grandson would pay $7,500 a month until, at the latest, September 30, 2011. On that date, Grandson agreed to pay Grandfather $1.2M. The agreement defined the failure to make any payment on the date it was due as a default. The parties agreed that if Grandson defaulted under the agreement, "Grandfather shall be entitled to the receipt of all outstanding shares of stock in KMP, and all other incidents of ownership including to the extent assignable the cemetery license." This language is clear; if Grandson failed to make a payment as scheduled, Grandfather received the KMP. While this language might well result in a forfeiture of the payments made by Grandson and whatever improvements he may have made to the KMP, the parties expressly provided for such a forfeiture in their agreement. This language must be enforced as written, and accordingly, the trial court's order did not result in an impermissible forfeiture.[31]

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[25] *Huntington Woods v Detroit*, 279 Mich App 603, 615-616; 761 NW2d 127 (2008) (citation and quotation marks omitted).

[26] *Id*.

[27] *Titan Ins Co*, 491 Mich at 553.

[28] *Id*.

[29] *Zeitler v Concordia Fire Ins Co*, 169 Mich 555, 560; 135 NW 332 (1912).

[30] *Rory*, 473 Mich at 461.

[31] *Id*. See also *Zeitler*, 169 Mich at 560.

E. PRELIMINARY INJUNCTION

Grandson next argues that the trial court's grant of a preliminary injunction was an abuse of discretion. We agree. "A trial court's grant of injunctive relief is reviewed for an abuse of discretion."[32] An abuse of discretion occurs when the trial court reaches a result falling outside the range of reasonable and principled outcomes.[33] "The trial court's factual findings are reviewed for clear error."[34] "A finding of fact is clearly erroneous when no evidence supports the finding or, on the entire record, this court is left with a definite and firm conviction that a mistake has been made."[35]

A preliminary injunction is an extraordinary remedy, one that may issue only "when justice requires, there is no adequate remedy at law, and there exists a real and imminent danger of irreparable injury."[36] " 'The objective of a preliminary injunction is to maintain the status quo pending a final hearing regarding the parties' rights.' "[37] To obtain a preliminary injunction, the moving party must prove that four elements favor issuing the injunction.[38] These elements are:

> (1) the likelihood that the party seeking the injunction will prevail on the merits, (2) the danger that the party seeking the injunction will suffer irreparable harm if the injunction is not issued, (3) the risk that the party seeking the injunction would be harmed more by the absence of an injunction than the opposing party would be by the granting of the relief, and (4) the harm to the public interest if the injunction is issued.[39]

The existence of irreparable harm "is considered an indispensable requirement for a preliminary injunction."[40] For a preliminary injunction to issue, the party requesting it must make "a particularized showing of irreparable harm."[41] The apprehension of future injury, or

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[32] *Mich AFSCME Council 25 v Woodhaven-Brownstown Sch Dist (On Remand)*, 293 Mich App 143, 146; 809 NW2d 444 (2011).

[33] *Id*.

[34] *Id*.

[35] *King v Mich State Police Dep't*, 303 Mich App 162, 185; 841 NW2d 914 (2013).

[36] *Pontiac Fire Fighters Union Local 376 v Pontiac*, 482 Mich 1, 8; 753 NW2d 595 (2008) (quotation omitted).

[37] *Mich AFSCME Council 25* at 145-146, quoting *Alliance for the Mentally Ill of Mich v Dep't of Community Mental Health*, 231 Mich App 647, 655-656; 588 NW2d 133 (1998).

[38] *Hammel v Speaker of the House of Representatives*, 297 Mich App 641, 648; 825 NW2d 616 (2012).

[39] *Alliance for the Mentally Ill*, 231 Mich App at 660-661.

[40] *Michigan AFSCME Council 25*, 293 Mich App at 149.

[41] *Id*.

speculation regarding whether an injury will result, is insufficient.[42] "The injury is evaluated in light of the totality of the circumstances affecting, and the alternatives available to, the party seeking injunctive relief."[43] The party seeking an injunction "bears the responsibility of submitting sufficiently persuasive evidence that particular, irreparable harm will result if an injunction does not issue."[44] "Generally, irreparable injury is not established by showing economic injury because such an injury can be remedied by damages at law."[45]

Soon after Chirco filed its complaint for interpleader, Grandfather sought an injunction to prevent Grandson from operating the KMP in a way that would cause it to lose value. The trial court denied this motion, but requested briefing regarding whether Grandfather was entitled to a preliminary injunction ordering Grandson to pay him $7,500 each month during the pendency of the lawsuit. Grandfather did so, arguing that he was financially destitute, and that without an order requiring Grandson to pay him $7,500 each month, he would lose his home. Grandson responded by contesting Grandfather's claim that he was financially destitute. After hearing arguments, the trial court found that Grandfather was at risk of losing his home. It entered a preliminary injunction which required Grandson to pay Grandfather $7,500 a month beginning in February, 2012. The trial court also ordered Grandson to make supplemental payments of $1,250 each week to pay off an additional $30,000, representing payments of $7,500 each month in the months of October, 2011, November, 2011, December, 2011, and January, 2012.

The only evidence indicating that Grandfather was at risk of losing his home was a single mortgage statement showing that he had missed one recent payment and owed a past due amount of approximately $1,200. He presented no evidence that he was facing an imminent foreclosure. The record is also devoid of any evidence of Grandfather's own assets or of his ability to obtain income from other sources. Without such evidence, the injury that was the basis for issuing the injunction was nothing more than a possibility. Grandfather failed to demonstrate "a particularized showing of irreparable harm[,]" which was required to support his request for a preliminary injunction.[46]

It is also clear that the trial court was acting under a misunderstanding of the parties' contractual relationship. The trial court believed that Grandson was contractually obligated to pay Grandfather $7,500 a month after September 30, 2011, and the preliminary injunction essentially enforced this obligation. No such obligation existed. The 2009 agreement clearly provided that Grandson was to pay $7,500 a month until September 30, 2011, at which point he was to pay Grandfather a lump sum of $1.2M. There is nothing in the parties' contractual relationship that provided for continuing payments after September 30, 2011. Rather, the agreement provided that if Grandson missed a payment, Grandfather was entitled to ownership

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[42] *Id*.

[43] *Id*.

[44] *Pontiac Fire Fighters*, 482 Mich at 11.

[45] *Alliance for the Mentally Ill*, 231 Mich App at 664.

[46] *Michigan AFSCME Council 25*, 293 Mich App at 149.

of the KMP.[47] If Grandfather incurred any damages because Grandson did not comply with the 2009 agreement, Grandfather could recover such damages in a breach of contract suit. Because an adequate legal remedy was available to Grandfather, a preliminary injunction could not issue.[48]

For these reasons, the trial court abused its discretion in ordering Grandson to pay $7,500 a month during the pendency of the litigation. The order must be vacated.[49] However, the record is unclear regarding exactly how much Grandson paid Grandfather under the order.[50] Thus, we remand the case to allow the trial court to determine how much was paid under the order and to order Grandfather to refund this amount to Grandson.

F. LEAVE TO FILE CROSS-CLAIM

Finally, Grandson argues that the trial court abused its discretion when it denied his motion for leave to file a cross-claim to assert claims of setoff and indemnification against Grandfather. We disagree. "This Court will not reverse a trial court's decision regarding leave to amend unless it constituted an abuse of discretion that resulted in injustice."[51] "There is no injustice if the proceedings would have reached the same result if the trial court had not denied a party leave to amend its pleadings."[52]

A trial court does not abuse its discretion by denying leave to amend where the amendments to a pleading would be futile.[53] Grandson sought leave to amend to file a cross-claim against Grandfather, raising claims for setoff and indemnification based on Grandfather's purported fraud in reselling plots deeded to the Free Will Baptist Church. These claims were based on provisions of the 2003 agreement. However, as was previously discussed, Grandson released all claims and defenses arising out of the 2003 agreement when he signed the 2006 and 2009 settlement agreements. Accordingly, Grandson's cross-claim was futile, and the trial court did not abuse its discretion by refusing to grant leave to file it.

Moreover, even if the trial court abused its discretion by denying leave, no prejudice would result. In 2013, the parties and the trial court agreed to dismiss the 2011 case without

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[47] Indeed, when Grandson, in an effort to extend the date on which the lump sum payment was due, offered to pay Grandfather $7,500 in October, 2011, Grandfather refused the offer.

[48] *Pontiac Fire Fighters*, 482 Mich at 9.

[49] See *id*. at 13.

[50] Grandson asserts that he paid $240,000 under the order. However, he does not explain how he arrived at this figure.

[51] *PT Today, Inc v Comm'r of Office of Fin and Ins Servs*, 270 Mich App 110, 142; 715 NW2d 398 (2006).

[52] *Id*.

[53] *Miller v Chapman Contracting*, 477 Mich 102, 106; 730 NW2d 462 (2007).

prejudice and file a new case raising the same claim. In 2014, Chirco filed a new complaint which was identical to the complaint filed in 2011. After the 2014 case was instituted, Grandson filed a cross-claim against Grandfather, raising his claims for setoff and indemnification. As Grandson was able to raise his claims against Grandfather, no prejudice resulted from the trial court's earlier refusal to grant leave to amend. Accordingly, reversal is not warranted on this basis.[54]

We vacate the trial court's January 24, 2012 order requiring Grandson to pay Grandfather $7,500 a month throughout the proceedings, and remand for further proceedings to determine the amount paid under this order and to return that sum to Grandson. Affirmed in all other respects. We do not retain jurisdiction.

/s/ Michael J. Talbot
/s/ Mark J. Cavanagh
/s/ Patrick M. Meter

[54] *PT Today, Inc*, 270 Mich App at 142.